

# HOUSE BILL No. 1199

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-8-8.

**Synopsis:** Human trafficking. Adds the crime of promotion of human trafficking of a minor to the definitions of "sex offender" and "sex or violent offender".

**Effective:** July 1, 2016.

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**McNamara, Olthoff, Steuerwald,  
Kirchhofer**

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January 7, 2016, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE BILL No. 1199

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 11-8-8-4.5, AS AMENDED BY P.L.168-2014,  
2       SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2016]: Sec. 4.5. (a) Except as provided in section 22 of this  
4       chapter, as used in this chapter, "sex offender" means a person  
5       convicted of any of the following offenses:

6               (1) Rape (IC 35-42-4-1).

7               (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

8               (3) Child molesting (IC 35-42-4-3).

9               (4) Child exploitation (IC 35-42-4-4(b)).

10              (5) Vicarious sexual gratification (including performing sexual  
11              conduct in the presence of a minor) (IC 35-42-4-5).

12              (6) Child solicitation (IC 35-42-4-6).

13              (7) Child seduction (IC 35-42-4-7).

14              (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A,  
15              Class B, or Class C felony (for a crime committed before July 1,  
16              2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a  
17              crime committed after June 30, 2014), unless:



- 1 (A) the person is convicted of sexual misconduct with a minor
- 2 as a Class C felony (for a crime committed before July 1,
- 3 2014) or a Level 5 felony (for a crime committed after June
- 4 30, 2014);
- 5 (B) the person is not more than:
- 6 (i) four (4) years older than the victim if the offense was
- 7 committed after June 30, 2007; or
- 8 (ii) five (5) years older than the victim if the offense was
- 9 committed before July 1, 2007; and
- 10 (C) the sentencing court finds that the person should not be
- 11 required to register as a sex offender.
- 12 (9) Incest (IC 35-46-1-3).
- 13 (10) Sexual battery (IC 35-42-4-8).
- 14 (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
- 15 (18) years of age, and the person who kidnapped the victim is not
- 16 the victim's parent or guardian.
- 17 (12) Criminal confinement (IC 35-42-3-3), if the victim is less
- 18 than eighteen (18) years of age, and the person who confined or
- 19 removed the victim is not the victim's parent or guardian.
- 20 (13) Possession of child pornography (IC 35-42-4-4(c)).
- 21 (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony
- 22 (for a crime committed before July 1, 2014) or a Level 4 felony
- 23 (for a crime committed after June 30, 2014).
- 24 (15) Promotion of human trafficking **under** IC 35-42-3.5-1(a)(2).
- 25 ~~if the victim is less than eighteen (18) years of age.~~
- 26 **(16) Promotion of human trafficking of a minor under**
- 27 **IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).**
- 28 ~~(16)~~ **(17)** Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
- 29 ~~(17)~~ **(18)** Human trafficking **under** IC 35-42-3.5-1(d)(3) if the
- 30 victim is less than eighteen (18) years of age.
- 31 ~~(18)~~ **(19)** Sexual misconduct by a service provider with a detained
- 32 or supervised child (IC 35-44.1-3-10(c)).
- 33 ~~(19)~~ **(20)** An attempt or conspiracy to commit a crime listed in
- 34 ~~subdivisions (1) through (18):~~ **this subsection.**
- 35 ~~(20)~~ **(21)** A crime under the laws of another jurisdiction,
- 36 including a military court, that is substantially equivalent to any
- 37 of the offenses listed in ~~subdivisions (1) through (19):~~ **this**
- 38 **subsection.**
- 39 (b) The term includes:
- 40 (1) a person who is required to register as a sex offender in any
- 41 jurisdiction; and
- 42 (2) a child who has committed a delinquent act and who:



(A) is at least fourteen (14) years of age;  
 (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and  
 (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

SECTION 2. IC 11-8-8-5, AS AMENDED BY P.L.168-2014, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A, Class B, or Class C felony (for a crime committed before July 1, 2014) or a Level 1, Level 2, Level 4, or Level 5 felony (for a crime committed after June 30, 2014), unless:
  - (A) the person is convicted of sexual misconduct with a minor as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);
  - (B) the person is not more than:
    - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
    - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
  - (C) the sentencing court finds that the person should not be required to register as a sex offender.



- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(c)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 4 felony (for a crime committed after June 30, 2014).
- (15) Promotion of human trafficking **under** IC 35-42-3.5-1(a)(2). ~~if the victim is less than eighteen (18) years of age.~~
- (16) Promotion of human trafficking of a minor under IC 35-42-3.5-1(b)(1)(B) or IC 35-42-3.5-1(b)(2).**
- ~~(16)~~ (17) Sexual trafficking of a minor (IC 35-42-3.5-1(c)).
- ~~(17)~~ (18) Human trafficking **under** IC 35-42-3.5-1(d)(3) if the victim is less than eighteen (18) years of age.
- ~~(18)~~ (19) Murder (IC 35-42-1-1).
- ~~(19)~~ (20) Voluntary manslaughter (IC 35-42-1-3).
- ~~(20)~~ (21) Sexual misconduct by a service provider with a detained or supervised child (IC 35-44.1-3-10(c)).
- ~~(21)~~ (22) An attempt or conspiracy to commit a crime listed in subdivisions ~~(1) through (20):~~ **this subsection.**
- ~~(22)~~ (23) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions ~~(1) through (21):~~ **this subsection.**
- (b) The term includes:
  - (1) a person who is required to register as a sex or violent offender in any jurisdiction; and
  - (2) a child who has committed a delinquent act and who:
    - (A) is at least fourteen (14) years of age;
    - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
    - (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in



1 subsection (a) if committed by an adult.  
2 (c) In making a determination under subsection (b)(2)(C), the court  
3 shall consider expert testimony concerning whether a child is likely to  
4 repeat an act that would be an offense described in subsection (a) if  
5 committed by an adult.

